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October 30, 2000

SCOTLAND, P.J.

We concur: Blease, J.
 Kolkey, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

October 30, 2000 Continued

- C034411 HARLOW et al. v. REYNOLDS (Not for Publication)**
The order denying defendant's motion to quash writ of execution and set aside judgment is affirmed. Plaintiffs shall recover their costs on appeal.
SIMS, Acting P.J.
We concur: Nicholson, J.
 Raye, J.
- C033899 In re ANNA N.; DEPARTMENT OF SOCIAL WELFARE v. MICHELLE N. et al. (Not for Publication)**
The judgment is affirmed.
 BLEASE, Acting P.J.
We concur: Sims, J.
 Hull, J.
- C034481 THE PEOPLE v. LOVDAHL (Not for Publication)**
The judgment is affirmed.
 KOLKEY, J.
We concur: Sims, Acting P.J.
 Hull, J.
- C033736 In re the Marriage of GARVINE (Not for Publication)**
The trial court's June 9, 1999, order is affirmed.
 SIMS, J.
We concur: Scotland, P.J.
 Hull, J.
- C035025 In re SHANCE C.; THE PEOPLE v. SHANCE C. (Not for Publication)**
The order denying the motion is affirmed.
 KOLKEY, J.
We concur: Scotland, P.J.
 Sims, J.
- C036349 JENETTE W. v. THE SUPERIOR COURT OF SHASTA COUNTY (SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES et al.) (Not for Publication)**
The petition is denied.
 NICHOLSON, J.
We concur: Sims, Acting P.J.
 Morrison, J.

**COURT OF APPEAL
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The Minutes

October 31, 2000

- C034078 THE PEOPLE v. STOUT**
Respondent's petition for rehearing is denied.
SCOTLAND, P.J.
- C030662 LESTER v. LENNANE (Certified for Publication)**
C031941 The appeals in case Nos. C030662 and C031941 are dismissed. The
C032406 judgment (order awarding primary physical custody) in case No. C032406
is affirmed. Lester shall receive her costs on appeal.
SIMS, J.
We concur: Scotland, P.J.
Davis, J.
- C032119 THE PEOPLE v. SCHULTZ (Not for Publication)**
The judgment is affirmed.
CALLAHAN, J.
We concur: Morrison, Acting P.J.
Kolkey, J.
- C032689 In re the Estate of HOBSON; LARSON, as Administrator etc. v.**
HOBSON et al. (Not for Publication)
The order denying appellant's motion to remove the administrator is affirmed. The appeal from the order denying appellant's motion for relief is dismissed. Respondent is awarded his costs on appeal. (Rule 26, Cal. Rules of Court.)
KOLKEY, J.
We concur: Sims, Acting P.J.
Raye, J.
- C035029 THE PEOPLE v. JONES (Not for Publication)**
The judgment is modified to provide for 78 days of conduct credit for a total of 234 days of presentence custody credit. The trial court shall prepare an amended abstract of judgment accordingly and forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.
CALLAHAN, J.
We concur: Nicholson, Acting P.J.
Morrison, J.
- C033221 THE PEOPLE v. DAVIS (Not for Publication)**
The judgment is affirmed.
SIMS, J.
We concur: Blease, Acting P.J.
Hull, J.

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The Minutes

October 31, 2000 Continued

- C033677 DAVIS v. BLOOM CONSTRUCTION COMPANY (Not for Publication)**
The judgment is affirmed. Bloom shall recover its costs on appeal.
SIMS, J.
We concur: Scotland, P.J.
Raye, J.
- C031267 PACK v. CHADWICK et al. (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Scotland, P.J.
Hull, J.
- C031646 THE PEOPLE v. GAUTIER (Not for Publication)**
The judgment is affirmed.
KOLKEY, J.
We concur: Nicholson, Acting P.J.
Hull, J.
- C034677 THE PEOPLE v. WILKINS (Not for Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We concur: Nicholson, J.
Morrison, J.
- C034847 THE PEOPLE v. MILLS (Not for Publication)**
The judgment is modified to impose a \$50 criminal laboratory analysis fee, a \$50 state penalty assessment, and a \$35 county penalty assessment. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.
SIMS, Acting P.J.
We concur: Nicholson, J.
Morrison, J.
- C033492 THE PEOPLE v. ROMERO (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We concur: Scotland, P.J.
Kolkey, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
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October 31, 2000 Continued

- C035534 In re ERIC R.; THE PEOPLE v. ERIC R. (Not for Publication)**
The judgment (order committing the minor to the CYA) is affirmed.
MORRISON, J.
We concur: Nicholson, Acting P.J.
 Callahan, J.
- C033443 KZSA BROADCASTING, INC. v. DIAMOND RADIO, INC.; Z SPANISH
NETWORK et al. (Not for Publication)**
The judgment is affirmed. Respondents shall recover their costs on
appeal.
 SIMS, J.
We concur: Scotland, P.J.
 Morrison, J.
- C034322 THE PEOPLE v. KLEIN, JR. (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Sims, Acting P.J.
 Nicholson, J.
- C034741 THE PEOPLE v. YODER (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Sims, Acting P.J.
 Nicholson, J.
- C032752 In re D.M.Z.R. et al.; DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. VIRGINIA R. (Not for Publication)**
The orders of the juvenile court as to Eddie and James are affirmed. The
appeal as to D.M.Z. is dismissed.
MORRISON, J.
We concur: Sims, Acting P.J.
 Kolkey, J.
- C032580 THE PEOPLE v. HOLLEY (Not for Publication)**
The judgment is affirmed.
BLEASE, J.
We concur: Scotland, P.J.
 Morrison, J.

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STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

October 31, 2000 Continued

C035062

THE PEOPLE v. TURNER

(Not for Publication)

The judgment is modified to provide for a \$200 parole revocation fine (Pen. Code, § 1202.45), an additional \$50 criminal laboratory analysis fee (§ 11372.5) and state and county penalty assessments of \$100 and \$70, respectively. The trial court is directed to prepare an amended abstract of judgment accordingly as well as correcting the description of the section 11378 violation to possession of methamphetamine for sale and adding the concurrent midterm imposed for perjury and to forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.

BLEASE, Acting P.J.

We concur: Davis, J.

Callahan, J.

C030711

RALEY'S et al. v. WINTER and SAVE MART SUPERMARKETS et al.

(Not for Publication)

That part of the judgment that provides that "Dennis J. Winter is entitled to indemnification from SSI pursuant to paragraph 6.1(f) of the 1992 Amended Partnership Agreement and California Labor Code §2802 for all expenses (including without limitation, attorney's fees and any expenses incurred in establishing the right to indemnification) reasonably incurred by him in connection with this action in the amount of \$600,653.42" is reversed. The judgment is modified to provide: that Save Mart and Piccinini had no actual authority to enter into Winter's 1995 Employment Agreement on SSI's behalf; that Winter is entitled under Labor Code section 218.5 to his attorney fees concerning his claim for his 1997 executive bonus; that Winter is entitled to his costs as a prevailing party in this litigation; and that any part of the judgment which rules on the individual causes of action of the various complaints and cross-complaints herein that is inconsistent with this disposition is deemed modified to be consistent herewith. The matter is remanded to the trial court for it to determine and award Winter's prevailing party costs, along with that portion of Winter's attorney fees incurred regarding his claim for the 1997 executive bonus. In all other respects, and as so modified, the judgment is affirmed.

DAVIS, J.

We concur: Scotland, P.J.

Sims, J.

**COURT OF APPEAL
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The Minutes

October 31, 2000

**C033679 R.J. SCUFFY, INC. et al. v. WORKERS' COMPENSATION APPEALS
BOARD and FRITZLER (Not for Publication)**

The decision of the Workers' Compensation Appeals Board is annulled.
The matter is remanded for further proceedings consistent with this
opinion.

RAYE, J.

We concur: Blease, Acting P.J.
Morrison, J.

November 1, 2000

C035052 THE PEOPLE v. WINLAND (Not for Publication)

The judgment is affirmed.

DAVIS, Acting P.J.

We concur: Nicholson, J.
Morrison, J.

C035055 THE PEOPLE v. GREGG (Not for Publication)

The judgment (order of probation) is affirmed.

DAVIS, Acting P.J.

We concur: Nicholson, J.
Morrison, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

November 2, 2000

**C028339
C029049**

BATES et al. v. HEFNER, STARK & MAROIS et al.

(Not for Publication)

The judgment in favor of Kevin Schoneman and HS&M is reversed. The judgment in favor of all remaining defendants is affirmed. The matter is remanded to the trial court with directions to vacate that portion of its order granting nonsuit to Kevin Schoneman and HS&M and to enter a new order denying nonsuit to those defendants. Plaintiffs are awarded costs on appeal to be paid by Kevin Schoneman and HS&M. The remaining defendants are awarded costs on appeal to be paid by plaintiffs.

HULL, J.

We concur: Sims, Acting P.J.
 Morrison, J.

C033964

THE PEOPLE v. PHILLIPS

(Not for Publication)

The convictions for assault by means of force likely to produce great bodily injury (count 1) and simple assault (count 2) are reversed. The superior court is directed to enter acquittals to both original charges and dismiss the case.

DAVIS, Acting P.J.

We concur: Raye, J.
 Hull, J.

C032381

**DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF LABOR
STANDARDS ENFORCEMENT et al. v. THE SUPERIOR COURT OF
SACRAMENTO COUNTY (HPS PLUMBING SERVICES, INC., et al.)**

(Not for Publication)

Because former section 1773.8 gave unfettered power to unions and union employers to set travel and subsistence requirements on public works projects, it was an unconstitutional delegation of legislative power. Real parties were therefore not required to comply with travel and subsistence requirements established pursuant to that provision. The alternative writ having served its purpose is discharged and DLSE's petition for a peremptory writ is denied.

HULL, J.

We concur: Morrison, Acting P.J.
 Kolkey, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
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November 3, 2000

- C034607 THE PEOPLE v. STRUBLE (Not for Publication)**
The judgment is affirmed.
 DAVIS, Acting P.J.
We concur: Raye, J.
 Hull, J.
- C033463 SIPES v. TRANSITIONAL LIVING AND COMMUNITY SUPPORT et al. (Not for Publication)**
The judgment of dismissal is affirmed.
 SCOTLAND, P.J.
We concur: Blease, J.
 Nicholson, J.
- C031115 FRIENDS OF PLACER COUNTY COMMUNITIES et al. v. COUNTY OF PLACER (AUBURN-49 ASSOCIATES) (Not for Publication)**
The judgment is reversed and remanded. Auburn 49 is awarded its costs on appeal.
 NICHOLSON, J.
We concur: Blease, Acting P.J.
 Morrison, J.
- C033898 THE PEOPLE v. PERKINS (Not for Publication)**
The judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect that the enhancement attached to count three was imposed pursuant to section 12022.5, subdivision (a)(1), and to send a copy of the amended abstract to the Department of Corrections.
 SCOTLAND, P.J.
We concur: Raye, J.
 Kolkey, J.
- C033565 CAPESTRO, as Trustee, etc. v. DUBNOW (Not for Publication)**
The judgment is affirmed. Dubnow's request for sanctions for a frivolous appeal is denied. Dubnow shall recover his costs on appeal (as shall Calaveras County Sheriff if any were incurred).
 SIMS, Acting P.J.
We concur: Morrison, J.
 Callahan, J.